

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

DECEMBER 15, 2003

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 15th DAY, IN THE YEAR 2003, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES, AT 7:00 P.M. THE INVOCATION WAS DELIVERED BY HARRY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY MARY JEAN DAVIS.

THE CLERK CALLED THE ROLL AND THE FOLLOWING MEMBERS ANSWERED TO THEIR NAMES:

**CHESTNUT
DAVIS
HANNA
HIGGINS
LANHAM
MILLER
NIELSEN
ROBERTSON
WARE
MAYOR JONES**

**CLOWSER

HARRIS
JONES
LOEB
MONROE
REED
SADD**

**DEITZLER
HALL
HARRISON
LANE
MORTON
MARKHAM
REISHMAN
TALKINGTON
WHITE**

TWENTY-SIX MEMBERS BEING PRESENT, THE MAYOR DECLARED A QUORUM.

PENDING THE READING OF THE JOURNAL OF THE PREVIOUS MEETING, THE READING THEREOF WAS DISPENSED WITH AND THE SAME DULY APPROVED.

DECEMBER 15, 2003, SECOND MEETING

CHARLESTON CITY COUNCIL JOURNAL DECEMBER 15, 2003

PUBLIC SPEAKERS

NONE.

CLAIMS

1. A claim of Barry Hunter, 1746 Coonskin Dr., Charleston WV; alleges damage to vehicle; Refer to City Solicitor.
2. A claim of Martha Kendall, 935 Matthew's Ave., Charleston WV; alleges damage to property; Refer to City Solicitor.
3. A claim of Robin Moss, 2236 Faclon Dr., Charleston WV; alleges damage to property; Refer to City Solicitor.
4. A claim of Alan McCartney, 1562 ½ Kanawha Blvd., Charleston WV; alleges damage to property; Refer to City Solicitor.
5. A claim of Louise Bailiff, 1004 Mathews Ave., Charleston WV; alleges damage to property; Refer to City Solicitor.
6. A claim of Martha Roberts, 612 Grant St., Charleston WV; alleges damage to property; Refer to City Solicitor.

COMMUNICATIONS

The Mayor Read the following Public Hearing:

AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW
DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON
BILL NO. 7026, A BILL TO AMEND AND REENACT CHAPTER
114, SECTION 578, OF THE CODE OF THE CITY OF
CHARLESTON TITLED "RESIDENTIAL PERMIT PARKING",
SAID AMENDMENTS ALLOWING OWNERS OF NON
RESIDENTIAL BUILDINGS WITHIN DESIGNATED AREAS TO
PURCHASE ONE (1) VISITOR PERMIT AND PROVIDING A

PROCEDURE FOR THE DECLASSIFICATION OF RESIDENTIAL
PERMIT PARKING AREAS.

IS THERE ANYONE FROM THE PUBLIC WHO WOULD LIKE
TO SPEAK.

THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 7026
CLOSED.

The Clerk read the following communication:

Honorable Danny Jones,
And Members of Council

Dear Mayor Jones and Councilmember's:

On December 3, 2003, the Municipal Planning Commission held public Hearings and its regular monthly meeting. The following cases were heard by the Commission:

Street Dedication – Roanoke Trace – Application of George Neilan requesting acceptance and dedication of the remaining portion of Roanoke Trace situated from the end of Jamestown Road to the northeast end of Roanoke Trace within the Jamestown Subdivision.

Special Permit#1129 – Application of Melhem Corey requesting a Special Permit for a Restaurant/Bar serving alcoholic beverages in an Urban Renewal District accessory to the business located at 1407-B Washington Street, East.

These Cases should be referred to the Planning Committee of Council.

The Mayor referred the cases to the Planning Committee of Council.

MISCELLANEOUS RESOLUTIONS

The Clerk Read the following Miscellaneous Resolutions:

Resolution No. 432-03

Introduced in Council:

December 15, 2003

Introduced by:

Edward Talkington, Chairperson
Environment & Recycling Committee

Resolution No. 432-03 -- “Concerning a ten (10%) percent increase in the monthly tonnage at the City of Charleston Landfill operated by Landfill Services of Charleston, Inc..”

WHEREAS, the City entered into an Operating Agreement with Landfill Services of Charleston, Inc., formerly known as West Virginia Waste Services, Inc., on February 15, 1994, to construct and operate the City of Charleston Landfill; and

WHEREAS, the solid waste permit issued to permittee, City of Charleston on December 1, 1994, was modified to reflect a “CLASS A” Landfill with the tonnage authorization of “15,000 tons/month” on April 29, 1997 that was modified to “16,500 tons/month” by a 10% increase on April 19, 1999 by Resolution No. 180-99, and

WHEREAS, West Virginia Code §47-38-3, Item 3.18.2.a.A. mandates that a minor modification may be approved by the director (WVDEP) for a permittee proposing to increase the volume of solid waste accepted at the facility by an amount of ten (10%) percent or less upon application in alternate years, unless such an increase requires a change in the classification of the facility; and

WHEREAS, more than four years time has elapsed since the modification to the Solid Waste Permit; therefore

Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That the Council of the City of Charleston directs the administration to take the appropriate action to initiate the submittal to the West Virginia Division of Environmental Protection, Office of Waste Management requesting a ten (10%) percent increase in the allowable monthly tonnage.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 432-03, adopted.

Resolution No.437-03

Introduced in Council:

December 15, 2003

Introduced by:

All Members of Council

Resolution No.437-03 – A Resolution of support for immediate funding of the construction of

new four-lane U.S. Route 35 through Mason and Putnam counties in West Virginia.

WHEREAS , the City of Charleston, the seat of government for the State of West Virginia, is extremely aware of the importance of an adequate, safe and efficient transportation network; and

WHEREAS, our City's elected officials are aware of a major "missing link" in the Midwest to Southeast transportation network – U.S. Route 35; and

WHEREAS, City leaders are aware of the need to complete the four-laning of U.S. Route 35 from Dayton, Ohio through West Virginia's Mason and Putnam Counties to a new interstate highway 64 interchange at Crooked Creek in Putnam County, currently under construction; and

WHEREAS, completion of the U.S. Route 35 missing link through Mason and Putnam Counties will substantially enhance the potential for increased economic development activity in West Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of City of Charleston does hereby join in support and encourage the immediate construction of the new four-lane U.S. Route 35 through Mason and Putnam Counties in West Virginia.

BE IT FURTHER RESOLVED, the Mayor, by execution of this Resolution, does hereby direct that a copy of this resolution, as adopted, be forwarded to the U.S. Route 35 Improvement Committee.

Adopted by the City Council of the City of Charleston, West Virginia, this 15th day of December, 2003.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 437-03, adopted.

Resolution No. 440-03

Introduced in Council

December 15, 2003

Tom Lane, Charles Loeb and Linda Nielsen

WHEREAS: Betty Lee Wampler was a prominent figure in the City of Charleston for decades, continually working with vigor and enthusiasm to make the city a more beautiful place to live through dedicated and effective service on Charleston City Council, the Capitol Building Commission and the Governor's Committee on Crime, Delinquency and Corrections among many organizations; and

WHEREAS: Betty Wampler was the driving force behind the establishment of the historical

preservation district in Charleston's East End, provided wonderful leadership as president of the East End Historical Society and worked to find resources to build the Celebration Station in that part of our city; and

WHEREAS: Mrs. Wampler approached her work on behalf of our citizens very seriously, serving on several committees, balancing her full-time job, learning so much about the city and its leaders, taking the time to get to know every police officer on a personal basis, and offering her forthright opinion by "telling it like it is;" and

WHEREAS: Betty and her husband Larry made their home on Charleston's historical Quarrier Street where she became an icon of the community and adopted the entire neighborhood and city as her family; and

WHEREAS: As a long-time member of City Council, Betty Wampler was both a predominant citizen and prominent visage of Charleston with her affection for jewelry, fashionable attire, golden shoes and yet a humble nature that made everyone she met feel very special indeed;

Therefore, be it resolved by The Council of The City of Charleston, West Virginia:

That Betty Lee Wampler be recognized as an exemplary and outstanding citizen of Charleston for her dedication to our City Council, the East End, the Charleston Police Department and all of our city.

We join in offering condolences on her passing to her husband Larry, extended family and many friends. With understanding that this spectacular lady will be deeply missed in our city, we also join in celebrating her 75 years of life, the many projects she shepherded, the many lives she touched and the many ways she made our City of Charleston a better place to be for generations to come. We are saddened by her passing but blessed because of her life with us and service to our city.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 440-03, adopted.

PLANNING

Councilwoman Mary Jean Davis, Chairman of the Council Committee on Planning, submitted the following reports.

Your Committee on Planning has had under consideration Special Permit #1123 attached hereto and made a part hereof,

1. Special Permit #1123, a permit for an Insurance Agency in an R-10, High Density Multi-family Residential District located at 2401 Washington St. East.

Your Committee finds the following:

1. The Special Permit would not alter the land use characteristics of neighborhood, as it is a continuation of a similar use.
2. Land use in the vicinity consists primarily of mixed residential and professional offices.
3. The subject property has maintained its residential character and is compatible with neighboring residential uses.

And reports the same to Council with the recommendation that Special Permit be approved.

The question being on the approval of the Special Permit a vote was taken. There being no dissent the Mayor declared Special Permit No.1123, approved.

FINANCE

Councilman Bobby Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 433-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 433-03, “Authorizing the Mayor to enter into an agreement with the West Virginia Office of Emergency Services to receive and administer grant funds from F.E.M.A. in the amount of \$7,500 under the FY2003 CERT Grant-Local Jurisdiction Deliverables. Said funds will be used to augment local emergency response activities through the Community Emergency Response Team (CERT) program.”

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into an agreement with the West Virginia Office of Emergency Services to receive and administer grant funds from F.E.M.A. in the amount of Seven Thousand Five Hundred Dollars (\$7,500) under the FY2003 CERT Grant-Local Jurisdiction Deliverables. Said funds will be used to augment local emergency response activities through the Community Emergency Response Team (CERT) program.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 433-03, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 434-03, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 434-03, “Authorizing the Mayor to enter into an agreement with the Board of Education of the County of Kanawha to provide police security services at meetings of the Board at the rate of \$31.25 per hour for the period January 1, 2004 through December 1, 2004.”

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into an agreement with the Board of Education of the County of Kanawha to provide police security services at meetings of the Board at the rate of Thirty-one Dollars and Twenty-five cents (\$31.25) per hour for the period January 1, 2004 through December 1, 2004.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays-1, absent-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reishman, Reed, Robertson, Talkington, Ware, White, Mayor Jones.

NAYS: Sadd.

ABSENT: Foster, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 434-03, adopted.

3. Your Committee on Finance has had under consideration Resolution No.435-03, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 435-03, “Authorizing the Mayor to enter into an agreement with the Bonham Group, Inc., in the amount of \$34,500, plus expenses, to perform a TBG Property Analysis of the Charleston Civic Center to determine the value that the Center represents as a sponsorship property.”

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into an agreement with the Bonham Group, Inc., in the amount of \$34,500, plus expenses, to perform a TBG Property Analysis of the Charleston Civic Center to determine the value that the Center represents as a sponsorship property.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 435-03, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 436-03, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 436-03, “Authorizing the Mayor to enter into an Memorandum of Understanding between the City of Charleston and the Oregon State Agency for Surplus Property (ORSASP) for the purpose of setting forth provisions for an arrangement with the City of access ORSASP’S electronic Commerce Marketing resources (online auctions/sealed bids) for the public sale to vehicles, equipment and personal property items”

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into an Memorandum of Understanding between the City of Charleston and the Oregon State Agency for Surplus Property (ORSASP) for the purpose of setting forth provisions for an arrangement with the City of access ORSASP'S electronic Commerce Marketing resources (online auctions/sealed bids) for the public sale to vehicles, equipment and personal property items. (See attached copy of MOU).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 436-03, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 437-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 437-03, "Authorizing the Mayor to submit a pre-application to the West Virginia Land & Water Conservation Fund for a grant in the amount of \$100,000 the East End Gateway Project."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to submit a pre-application to the West Virginia Land & Water Conservation Fund for a grant in the amount of One Hundred Thousand Dollars (\$100,000) for the East End Gateway Project; and further authorizing the Mayor to sign any and all documents necessary for the completion of the project should it receive National Park Service approval.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 437-03, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 439-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 439-03, "Authorizing the Mayor to sign a request to Bank One, West Virginia, NA, to discharge the Series 1993 Bond Indenture, and to take all actions associated therewith, for the City's share of the Kanawha County, Putnam County, Huntington and Charleston Taxable Compound Accretion Refunding Bonds, Series 1993, providing for payment of excess funds to be distributed to the Issuers."

WHEREAS, the City of Charleston, Through Resolution No. 875-84, adopted by Council on August 6,1984, acting in concert with Putnam and Kanawha Counties and the City of Huntington (collectively the "Issuers"), jointly issued \$39,004,959.50 aggregate principal amount of Single Family Mortgage Revenue Bonds, Series 1984 A (the "1984 Bonds"). The proceeds of the 1984 Bonds were used to make low interest mortgage loans to qualified home buyers; and

WHEREAS, in 1993 the Issuers issued \$31,175,000 maturity amount of Taxable Compound Accretion Refunding Bonds, Series 1993 (the Refunding Bonds). The proceeds of the Refunding

Bonds were used to defease the 1993 Bonds. Once that occurred, the mortgages which were financed with the 1984 Bonds became the source of security and repayment of the Refunding Bonds; and

WHEREAS, due to favorable conditions, the mortgages have produced enough revenue to pay off all of the Refunding Bonds quicker than what was originally anticipated. The mortgage and bonds documents provide that upon payment of the Refunding Bonds, the remaining mortgage obligations of the borrowers shall be forgiven and any excess funds shall be distributed among the Issuers in proportion to the amount of mortgagee loans made within the boundaries of each Issuer in proportion to the amount of mortgage loans made within the boundaries of each Issuer with the precedes of the 1994 Bonds. The percentages are as follows:

<u>Issuer</u>	<u>Percentage</u>
Putnam County	17.76%
Kanawha County	33.70%
Huntington	23.82%
Charleston	<u>24.72%</u>
	100.00%

WHEREAS, in order to discharge the Refunding Bonds, the Trustee needs to receive the request of each of the Issuers to do so. Once all of the Issuers provide the request forms to the Trustee, then the Trustee will forgive all remaining mortgages, refund to the mortgagors any payments they have made since the date of payment of the Refunding Bonds, together with any interest earnings on such amounts, pay the Trustee's fees and expenses in winding up the bond issue and distribute the excess funds to the Issuer in accordance with the percentages set forth above; now therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to sign a request to Bank One, West Virginia, NA, to discharge the Series 1993 Bond Indenture, and to take all actions associated therewith, for the City's share of the Kanawha County, Putnam County, Huntington and Charleston Taxable Compound Accretion Refunding Bonds, Series 1993, providing for payment of excess to be distributed to the Issuers.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 439-03, adopted.

7. Your Committee on Finance has had under consideration a proposal submitted by St. Mary's Ford & Mercury, in the amount of \$256,206, for purchase of twelve (12) 2004 Ford Crown Victoria Police Interceptors (cruisers) for use in the Patrol Division of the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-461, Police – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the committee report a vote was taken. There being no

dissent the Mayor declared the committee report adopted unanimously.

8. Your Committee on Finance has had under consideration a proposal submitted by Country Club Chrysler- Plymouth- Dodge, in the amount of \$67,779, for purchase of three (3) 2004 Dodge Durango Police Utility Vehicles for use in the Patrol Division of the Charleston police Department. To be charged to Account No. 001-976-00-700-4-461, Police – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

9. Your Committee on Finance has had under consideration a payment of an invoice from the Charleston Newspapers, in the amount of \$13,529.76, for publication of the City's Financial Statement in the Charleston Gazette and The Charleston Daily Mail on November 29, 2003. To be charged to Account No. 001-412-00-000-2-220, City Manage- Advertising/Legal Publications, and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

10. Your Committee on Finance has had under consideration a payment of an invoice from Spilman, Thomas & Battle, PLLC, in the amount of \$4,739.89, for professional services rendered during the month of October 2003 relating to West Virginia-American Water Company issues. To be charged to Account No. 001-417-00-000-2-223, Legal-professional Services, and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted. Abstain: Loeb, Davis, Ware

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; November 2003; Received and Filed.
2. Report of the City of Charleston, Municipal Court Financial Statements; November, 2003. Received and Filed.
3. Annual Report of the Policemen's and Firemen's Pension and Protection Fund. Received and Filed.
4. City of Charleston Financial Statements for the five- month period ended; November 30, 2003.

Received and Filed.

5. City Treasurer's Report to City Council Month Ending November 2003;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilpersons Jack Harrison and Mary Jean Davis, on December 15, 2003:
Bill No. 7026, A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted uses to allow "Gambling establishment" as a permitted use in the CBD Central Business District and to amend the table of special permit uses to allow "Gambling establishment" as a special permit use in the following districts; C-6 Community Commercial, C-8 Village Commercial, and C-10 General Commercial.
Refer to Municipal Planning Commission.

Introduced by Councilwoman Mary Jean Davis, on December 15, 2003:
Bill No. 7029, A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted to allow "School – nursery, kindergarten, elementary, junior high, senior high, college or university" as a permitted use in the following districts; C-4 Neighborhood Commercial, C-6 Community Commercial, C-8 Village Commercial, C-10 General Commercial, and CBD Central Business District.
Refer to Municipal Planning Commission.

Introduced by Councilman John Miller, Jr., on December 15, 2003:
Bill No. 7030, A Bill to establish Perpendicular Parking on both sides of 44th Street from MacCorkle Avenue to the first alley south of MacCorkle Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Refer to Streets and Traffic.

Introduced by Councilman Charlie Loeb, on December 15, 2003:
Bill No. 7031, A Bill Amending and reenacting the Building Code for the City of Charleston to update provisions in light of the State's adoption of the International Code Council's building code models; to include inspection fees; to update the Building Department Administrative Manual with changes attached hereto; and, to provide for the release of demolition liens in exchange for timely improvements to property.
Refer to Rules and Ordinances Committee.

Introduced by Councilman Tom Lane, on December 15, 2003:
Bill No. 7032, Chapter two (2) of the Code of the City of Charleston, as amended, by adding thereto four (4) new sections designated sections six hundred eighty five (685), six hundred eighty six (686), six hundred eighty seven (687), six hundred eighty eight (688), all relating to the creation, organization, duties and finances of the Charleston Land Trust.

Finance Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

A presentation was given by Councilman Tom Lane and Mike Clowser concerning the City storm drains.

Councilman Lane Presented a Proclamation recognizing Mayor Jones for providing a Holiday Luncheon for City Employees on December 8, 2003, at the Civic Center.

ROLL CALL

The Clerk called the roll and the following members were in attendance:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reishman, Reed, Robertson, Sadd, Talkington, Ware, White, Mayor Jones.

ABSENT: Foster, Weintraub.

At 8:30 p.m., on motion of Councilman Loeb, Council adjourned until January 5, 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk